

If the sign vendor produces a sign on special order of the customer and the sign is so specialized that it would have no commercial value to anyone other than that particular customer who placed the order, the sign vendor would incur a Service Occupation Tax liability instead of a Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 140.101 (This is a GIL).

June 21, 2001

Dear Xxxxx:

This letter is in response to your letter dated April 16, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

I was told I could write and describe our situation and get in writing answers on sales tax. We manufacture and install signs in STATE. A sign package for a new restaurant would involve several signs.

Outside signs would involve a large main oval on a pole in concrete and others are inserted into a cutout in the building. Drive through menu boards where customers can order are also in concrete. There would be smaller enter and exit ovals also in concrete. These are electrical signs.

Inside would be menu boards (lighted electrically) installed on the wall with screws. There would be ADA signage on bathroom doors and signs hung on the wall with a hook.

My question - would these be real property or tangible personal property and how would they be taxed in Illinois?

Also would labor be taxed on the installation if we installed? If we hire another sign company to install and we bill, how would that be handled?

These questions are precipitated because a competitor from the state of Iowa is doing work in STATE and Illinois and telling the customer that the customer doesn't have to pay STATE and Illinois sales tax.

I wish to thank you in advance for your help.

A person who sells signs that have commercial value (i. e., value to persons other than the purchasers) incurs Retailers' Occupation Tax (sales tax) liability when making such sales, even if

such signs are produced on special order for the purchaser. Examples of signs having such commercial value would be ones that spell out "real estate", "insurance," or "hamburgers," and which do not spell out the name of the purchaser nor the brand name of the purchaser's product and which are not otherwise similarly individualized. Signage intended to comply with the Americans with Disabilities Act (ADA) could be included in this category. Please refer to 86 Ill. Adm. Code 130.2155 Vendors of Signs, enclosed. When a sign that has commercial value is sold and installed, the installation charge is also subject to Retailers' Occupation Tax unless there is a separate agreement for the installation charge. See 86 Ill. Adm. Code 130.450, enclosed.

If the sign vendor produces a sign on special order of the customer and the sign is so specialized that it would have no commercial value to anyone other than that particular customer who placed the order, the sign vendor would not incur Retailers' Occupation Tax liability. These transactions would be subject to liability under the Service Occupation Tax Act and the sign vendor would be considered a serviceman. See 86 Ill. Adm. Code 140.101, enclosed.

The above assumes that the signs remain tangible personal property after installation. If the signs were permanently affixed structurally as real estate, then there would be different tax consequences. Under Illinois law, a person who takes tangible personal property off the market and converts it into real estate is deemed a construction contractor and is the legal end-user of the tangible personal property. The construction contractor, as the user, incurs Illinois Use Tax and local Retailers' Occupation Tax reimbursement liabilities when the tangible personal property that will be converted into real estate is purchased from registered Illinois suppliers. If such items were purchased from suppliers that did not collect the tax, the person who converts the tangible personal property into real estate is required to self-assess and remit the Use Tax to the Department based upon the cost price of the property. For information on construction contractors, see 86 Ill. Adm. Code 130.1940 and 130.2075, enclosed.

Signs that are attached to a pole that is set in concrete or that are inserted into a cutout in the building and are attached to electrical wiring are considered to be permanently attached to real property. The discussion on construction contractors, above, would apply to these situations.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.